


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
MAY 16 2012

CLERK

UNITED STATES OF AMERICA,

CR 12-10021

Plaintiff,

OPINION AND ORDER

-VS-

WESLEY DILLON, SR.,

Defendant.

The government filed a motion for review of the Magistrate's order setting conditions of release pursuant to 18 U.S.C. § 3145(c).

Defendant is charged with one count of aggravated sexual abuse of a child in violation of 18 U.S.C. § 2241(c). The crime is alleged to have occurred between July 1, 2006, and January 1, 2007. Pursuant to 18 U.S.C. § 3142(e)(2), a rebuttable presumption exists that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the offense qualifies under 18 U.S.C. § 3142(f)(1)(A) and (B) as a crime of violence and an offense with a maximum penalty of life imprisonment. The magistrate ruled that the defendant had met his burden in overcoming the presumption.

The transcript of the detention hearing has been reviewed as well as the order setting conditions of release. I find that the decision of the magistrate to release the defendant on conditions should be affirmed. The magistrate was in the best position to judge the credibility of the witnesses at the detention hearing. The defendant has had no contact with law enforcement since his release from custody in 2007. The defendant's release was granted with stringent conditions, including third party custody and home

confinement with electronic monitoring which requires the installation of a land-line telephone. He will be residing in North Dakota and will have no access to the alleged victim herein.

Based upon the foregoing,

IT IS ORDERED that the government's motion for reconsideration of release, Doc. 18, is denied.

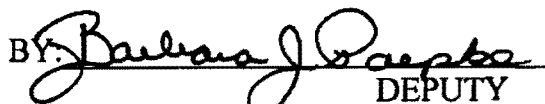
Dated this 16th day of May, 2012.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)